

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ethan Waterman	Team: Squad #14	CCRB Case #: 202003743	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 05/29/2020 10:40 PM	Location of Incident: In front of 242 Flatbush Avenue	Precinct: 78	18 Mo. SOL 11/29/2021	EO SOL 5/4/2022	
Date/Time CV Reported Sun, 05/31/2020 9:12 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 05/31/2020 9:12 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. POM Jose Dejesus	29842	967034	078 PCT
3. SGT Thomas Chan	01232	941535	078 PCT
4. COD Terence Monahan	00000	876747	CD OFF

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SSA Angelo Pirozzi	03390	919567	078 PCT
2. CCA Jeffrey Maddrey	00000	899501	C A B

Officer(s)	Allegation	Investigator Recommendation
A. COD Terence Monahan	Force: Chief of Department Terence Monahan authorized the use of physical force against § 87(2)(b)	
B. An officer	Force: An officer used physical force against § 87(2)(b)	
C. An officer	Force: An officer used physical force against § 87(2)(b)	
D. An officer	Force: An officer used physical force against § 87(2)(b)	
E. An officer	Abuse: An officer refused to provide his name to § 87(2)(b)	
F. An officer	Abuse: An officer refused to provide his shield number to § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

### Case Summary

On May 31, 2020, § 87(2)(b) filed this complaint via the CCRB's online website.

On May 29, 2020, at approximately 10:40 p.m., § 87(2)(b) was on his way home from his job as a security worker when he saw a vandalized marked SUV on the southwest corner of Flatbush Avenue and 6<sup>th</sup> Avenue in Brooklyn. At the same time, former Chief of Department Terence Monahan, who was supervising the dispersal of a large crowd at the nearby Barclays Center, authorized the use of force against civilians in the vicinity of Flatbush Avenue and 6<sup>th</sup> Avenue in Brooklyn (**Allegation A: Force** – § 87(2)(g)). § 87(2)(b) took a video recording on his phone of the vandalized SUV when approximately 15 officers in riot gear ran towards § 87(2)(b) from the north side of the street corner. An unidentified officer grabbed § 87(2)(b) by his backpack and pulled him to the ground (**Allegation B: Force** – § 87(2)(g)). Several officers then handcuffed § 87(2)(b) while an unidentified officer knelt § 87(2)(b) in the head (**Allegation C: Force** – § 87(2)(g)). After § 87(2)(b) was handcuffed but while he was still on the ground, an unidentified officer punched § 87(2)(b) on the left side of his head (**Allegation D: Force** – § 87(2)(g)). Officers then stood § 87(2)(b) up. § 87(2)(b) asked the officer who had punched him for his name and shield number, but the officer did not respond to § 87(2)(b)'s request (**Allegations E-F: Abuse of Authority** – § 87(2)(g)).

§ 87(2)(b) was arrested for disorderly conduct (fighting/violent behavior) and transported to the 78<sup>th</sup> Precinct stationhouse. § 87(2)(b) was thereafter released without any charges and § 87(2)(b)'s arrest report was voided (BR 01).

§ 87(4-b), § 87(2)(g)

The investigation received BWC footage from the NYPD, the contents of which will be discussed in further detail below.

### Findings and Recommendations

#### Allegation (A) Force: Chief of Department Terence Monahan authorized the use of physical force against § 87(2)(b)

As noted above, § 87(2)(b) alleged that at approximately 10:40 p.m. on May 29, 2020, at the corner of Flatbush Avenue and 6<sup>th</sup> Avenue in Brooklyn, unidentified officers pulled him to the ground, knelt him in the head, and punched him in the head.

The CCRB determined that former Chief of Department Monahan was the highest-ranking officer present during the protests at Barclays Center on May 29, 2020. Chief Monahan testified (BR 14) that he determined the assembly at the Barclays Center to be unlawful due to the violence of the crowd, namely throwing objects at officers and reports of injuries. Chief Monahan told Deputy Chief John Ddamo of the Strategic Response Group (SRG) to “clear the streets,” including Atlantic and Flatbush Avenues, and arrest anyone that refused to disperse from the area if necessary. At approximately 10:40 p.m., at Flatbush Avenue and Sixth Avenue in Brooklyn, there were still civilians who had not yet dispersed from the protests at Barclays Center. Chief Monahan instructed officers on scene to “keep moving them along,” referring to the civilians who had not dispersed yet. Chief Monahan testified that SRG officers moved these civilians back to clear the area.

Per the CCRB's Complaint Tracking System database, Chief Monahan's was no longer an active member of the Department as of April 1, 2021.

§ 87(2)(g)

§ 87(2)(g)

**Allegation (B) Force: An officer used physical force against § 87(2)(b)**

**Allegation (C) Force: An officer used physical force against § 87(2)(b)**

**Allegation (D) Force: An officer used physical force against § 87(2)(b)**

**Allegation (E) Abuse of Authority: An officer refused to provide his name to § 87(2)(b)**

**Allegation (F) Abuse of Authority: An officer refused to provide his shield number to § 87(2)(b)**

### **Known Facts and General Descriptions**

On May 29, 2020, at approximately 10:40 p.m., § 87(2)(b) said (BR 02-03) he stood in front of the shuttered Woodland Bar on the southwest corner of 6<sup>th</sup> and Flatbush Avenues in Brooklyn. § 87(2)(b) saw a vandalized marked SUV on the corner. § 87(2)(b) took a video of the SUV, as other civilians on the sidewalk were doing. As he stood on the sidewalk recording the marked SUV, § 87(2)(b) saw approximately 15 officers in riot gear run towards him from 6<sup>th</sup> Avenue. § 87(2)(b) could only describe these officers in riot gear as white males. Upon seeing these officers, § 87(2)(b) began to walk away from the marked SUV and dropped his phone. Other civilians ran away. Once the officers reached § 87(2)(b) one of the officers in riot gear grabbed § 87(2)(b) by his backpack and pulled him to the ground. Thereafter, four officers in riot gear handcuffed § 87(2)(b) and an officer in riot gear knelt him in the head. § 87(2)(b) further said that, once he was handcuffed but still on the ground, an officer punched him in the side of the head. The officer who punched § 87(2)(b) in the head appeared to be a Black male, approximately 5'6"-5'7", average build, late-20s-to-early-30s in age, with a Caesar haircut and a navy blue standard patrolman's uniform. Officers then stood § 87(2)(b) up. The officer who had punched § 87(2)(b) handed § 87(2)(b) his phone. § 87(2)(b) then asked the officer, "What's your name?" and asked for his shield number, but the officer did not respond. The officer placed § 87(2)(b) in a police van, and within minutes, § 87(2)(b) was driven to the 78<sup>th</sup> Precinct stationhouse for arrest processing.

A second officer, determined by the investigation to be PO Dejesus, then processed § 87(2)(b) at the 78<sup>th</sup> Precinct stationhouse. Between 12:30 a.m. and 1:00 a.m., § 87(2)(b) was released from the stationhouse without any charges. When § 87(2)(b) left the stationhouse, he looked in a car mirror and saw that the left side of his face was swollen. § 87(2)(b) went to § 87(2)(b) at approximately § 87(2)(b) on § 87(2)(b). Doctors told § 87(2)(b) that it was evident that someone had used force against § 87(2)(b)'s left eye and temple. Doctors also took x-rays of § 87(2)(b)'s ribs and back but revealed no bone damage.

§ 87(2)(b) sent the investigation a live photograph (BR 04) of the graffitied marked SUV on the southwest corner of Flatbush Avenue and 6<sup>th</sup> Avenue. The photograph did not feature any members of service.

§ 87(2)(b) sent the investigation a photograph (BR 05) of his hospital discharge sheet, which listed § 87(2)(b) as a victim of physical assault. The discharge sheet directed § 87(2)(b) to take Tylenol as needed for pain and further noted that medical professionals had taken a chest x-ray of § 87(2)(b). The CCRB requested § 87(2)(b) sign HIPAA forms, and § 87(2)(b) acceded, but never returned the completed forms.

### **BWC**

The investigation made four BWC requests regarding this incident and received 67 videos, none of which corresponded with this incident (BR 06-10).

The NYPD first searched for footage corresponding to the following criteria: 12:00 a.m.-11:59 p.m. on May 29, 2020 and 12:00 a.m.-01:59 a.m. on May 30, 2020, for PO Dejesus, the 78<sup>th</sup> Precinct, and PSA 1, which returned negative results. The NYPD then independently searched for footage corresponding to the following criteria: 9:40 p.m. to 11:40 p.m. on May 29, 2020, for PO Dejesus, the 78<sup>th</sup> Precinct, Strategic Response Group 3, Critical Respond Command, and the Counterterrorism Bureau, which also returned negative results.

The investigation then requested that NYPD search the following parameters: 10:00 p.m. to 11:00 p.m. on May 29, 2020, for the 68<sup>th</sup>, 70<sup>th</sup> and 114<sup>th</sup> Precincts, as PO Dejesus testified (BR 11) that details from these precincts were in the general vicinity during this incident. This request returned negative results.

Furthermore, the investigation requested the NYPD query the following officers, who were identified in detail rosters and roll calls from the night of the incident: Sgt. Chan, Sergeant Paula Smith of the 78<sup>th</sup> Precinct, Police Officer Leonard Leslie of the 78<sup>th</sup> Precinct, Police Officer Aron Baksh of the 78<sup>th</sup> Precinct, Police Officer Daniel Alvarez of the 78<sup>th</sup> Precinct, Sergeant Alexander Wong of the 103<sup>rd</sup> Precinct, Police Officer Aphisith Usdonvudhikai of the 103<sup>rd</sup> Precinct, Police Officer Matthew Neubauer of the 103<sup>rd</sup> Precinct, Police Officer Kevin O'Shea of the 103<sup>rd</sup> Precinct, Police Officer Paul Brooks of the 103<sup>rd</sup> Precinct, Police Officer William Schoenewerk of the 103<sup>rd</sup> Precinct, Police Officer Richard Dudley of the 103<sup>rd</sup> Precinct, Police Officer Leonard Lazo of the 103<sup>rd</sup> Precinct, and PO Joel Bacchus of the 103<sup>rd</sup> Precinct. This third request returned positive results for PO O'Shea and PO Brooks, as well as Sgt. Viola of the 70<sup>th</sup> Precinct: seven videos in total. However, these results did not pertain to the incident.

Finally, the investigation requested the NYPD search the following parameters: all SRG commands between 10:00 p.m. to 11:00 p.m. This request returned 60 results, but none of the videos corresponded with this incident.

### **NYPD Documents Reviewed**

No Threat, Resistance, and Injury Report Worksheet was prepared regarding § 87(2)(b)

As noted above, the investigation reviewed detail rosters created for the Barclays Center protests on May 29, 2020 (BR 12). These detail rosters included location-based assignments for each assigned command – the 103<sup>rd</sup> Precinct was stationed approximately two blocks away from Flatbush Avenue and 6<sup>th</sup> Avenue, in front of the 78<sup>th</sup> Precinct side entrance, and evenly spaced on 6<sup>th</sup> Avenue between Bergen and Dean Streets on the west side of the street. The investigation reviewed roll call for the 78<sup>th</sup> Precinct (BR 13), which listed five officers as assigned to a protest detail: PO Alvarez, PO Baksh, PO Leslie, PO Trafildo, and PO Dejesus.

The only NYPD documentation which directly referenced § 87(2)(b) were his voided arrest report (which listed PO Dejesus and Sgt. Pirozzi as the arresting officer and approving supervisor, respectively)(BR 01), and the 78<sup>th</sup> Precinct's command log (which listed Sgt. Chan as the supervisor who verified § 87(2)(b)'s arrest)(BR 13).

§ 87(2)(b)'s voided arrest report did not further identify any officers involved in his arrest. The narrative only read as follows: § 87(2)(b), § 87(2)(a) 160.50

§ 87(2)(b)

### **Concurrent Investigations**

There are no concurrent investigations regarding the allegations levied by § 87(2)(b)

### **Ranking Officers**

Specifically, for the protest detail at the 78<sup>th</sup> Precinct, Sgt. Chan was the highest-ranking officer. Regarding the larger surrounding protests at the Barclays Center, the CCRB determined that Chief of Department Terence Monahan was present on the night of May 29, 2020. Chief of Department Monahan testified (BR 14) that at approximately 10:40 p.m., at Flatbush Avenue and

Sixth Avenue in Brooklyn, there were still civilians who had not yet dispersed. SRG officers moved these civilians back to clear the area. Chief Monahan instructed officers on scene to “keep moving them along,” referring to the civilians who had not dispersed yet. Chief Monahan did not see an officer punch a black male civilian in the face.

### **Officers Interviewed**

As PO Dejesus was § 87(2)(b)'s arresting officer, the investigation interviewed him. PO Dejesus (BR 11) testified that he had been assigned to stand at attention at Bergen Street and Flatbush Avenue beginning at 3:00 p.m. with PO Alvarez, PO Baksh, PO Leslie, and Sgt. Smith. At approximately 10:40 p.m., Sgt. Chan directed PO Dejesus to leave the line and go to a parked van in which § 87(2)(b) was seated alone. Sgt. Chan gave no additional information regarding § 87(2)(b) including who apprehended him and why he had been apprehended. PO Dejesus sat down in the van. PO Dejesus did not see § 87(2)(b)'s apprehension. PO Dejesus did not see any apparent injuries on § 87(2)(b). An unknown officer drove PO Dejesus and § 87(2)(b) to the 78<sup>th</sup> Precinct stationhouse. At the stationhouse, PO Dejesus testified, Sgt. Chan told PO Dejesus to void the arrest as PO Dejesus could not establish probable cause for disorderly conduct.

As PO Dejesus identified Sgt. Chan as the member of service who directed him to interact with § 87(2)(b) the investigation interviewed Sgt. Chan. Sgt. Chan testified (BR 15) that, throughout the evening of May 29, 2020, he walked in the vicinity of Flatbush Avenue and responded to various 10-85 calls for assistance. Sgt. Chan had no specific recollection of the incident regarding § 87(2)(b) and did not remember ever having any dialogue with PO Dejesus. Sgt. Chan did not see officers push § 87(2)(b) to the ground or punch him in the head. Sgt. Chan acknowledged that he was the supervising officer for § 87(2)(b)'s arrest on scene, as corroborated by the command log entry discussed above. Sgt. Chan testified that, on the night of May 29, 2020, he had directed officers to take apprehended civilians to the 78<sup>th</sup> Precinct stationhouse for processing but did not specifically remember § 87(2)(b)'s arrest.

As Sgt. Pirozzi was listed as the supervising officer on § 87(2)(b)'s voided arrest report, the investigation interviewed him. Sgt. Pirozzi testified (BR 16) that had no independent recollection of interacting with § 87(2)(b) on the night of the incident. Sgt. Pirozzi testified that he was the desk officer and did not recall if he ever left the precinct stationhouse during his tour. Sgt. Pirozzi never assisted in any arrests outside the precinct stationhouse. Sgt. Pirozzi testified that he instructed PO Dejesus to void § 87(2)(b)'s arrest as PO Dejesus could not articulate probable cause. Sgt. Pirozzi approved the voided arrest because it was his duty as the desk officer.

Chief Maddrey of the Community Affairs Bureau was interviewed regarding this case; at the time of this incident, Chief Maddrey testified (BR 17) that he was at the 88<sup>th</sup> Precinct stationhouse but testified that Chief of Department Monahan was on scene and the supervisor at the Barclays Center demonstration.

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

[REDACTED]

§ 87(4-b), § 87(2)(g)

[REDACTED]

§ 87(4-b), § 87(2)(g)

[REDACTED]

§ 87(4-b), § 87(2)(g)

#### **Civilian and Officer CCRB Histories**

- This is the first complaint to which § 87(2)(b) has been a party (BR 23).
- Chief Monahan was a member of service for 39 years and was named a subject in 13 cases and 32 allegations, none of which was substantiated. § 87(2)(g)
- PO Dejesus has been a member of service for two years and this is the first complaint to which he has been a subject.
- Sgt. Chan has been a member of service for 14 years and has been subject to nine prior complaints and ten allegations, none of which were substantiated. § 87(2)(g)

#### **Mediation, Civil and Criminal Histories**

- This case was not eligible for mediation.
- As of September 16, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this complaint (BR 24).
- According to the Office of Court Administration, § 87(2)(b) has no history of convictions in New York City (BR 25).

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Squad No.: 14

Investigator: Ethan C. Waterman      Inv. Ethan Waterman      June 23, 2021  
Signature      Print Title & Name      Date

Squad Leader: Cassandra Fenkel      IM Cassandra Fenkel      June 24, 2021  
Signature      Print Title & Name      Date

Reviewer: \_\_\_\_\_  
Signature      Print Title & Name      Date